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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|------------------------|------------------|
| 10/628,330 | 07/29/2003 | Satoshi Miura | 03131 | 6093 |
| 23338 | 7590 | 08/02/2006 | EXAMINER | |
| DENNISON, SCHULTZ & MACDONALD 1727 KING STREET SUITE 105 ALEXANDRIA, VA 22314 | | | VERDIER, CHRISTOPHER M | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3745 | |

DATE MAILED: 08/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/628,330

Applicant(s)

MIURA ET AL.

Examiner

Christopher Verdier

Art Unit

3745

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 07 July 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☒ They raise the issue of new matter (see NOTE below);
(c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

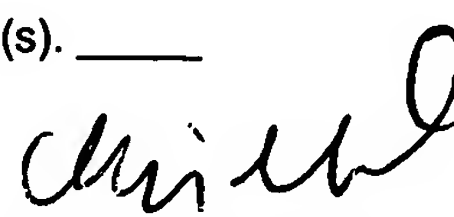
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-6, 10-17, 21 and 22.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
13. ☐ Other: _____.


Christopher Verdier
Primary Examiner
Art Unit: 3745

Continuation of 3. NOTE: The amendment proposes amending claim 1 to incorporate the limitations of claim 5, and amending claim 14 to incorporate the limitations of claim 17. Neither claim 5 nor claim 17 were rejected based 35 USC 103. While this amendment is appreciated, a terminal disclaimer is still required in order to overcome the obviousness-type double patenting rejections set forth in the final rejection. Also note that in claim 1, starting from the sixth line from the bottom of the claim, numerous terms lack antecedent basis such as "the predetermined pitch", "the grooves", "the first surface", "the second surface", etc. The proposed amendment to claim 1 would result in direct conflict with claim 4 and add new matter, because the impeller grooves cannot be both in the same circumferential position as recited in claim 1 and shifted by half the pitch as recited in claim 4. Additionally, the first and second discharge port cannot be displaced by one-half the pitch of the grooves as recited in claim 1 with the first and second discharge port being disposed at the same position as recited in claim 4. The proposed amendment to claim 14 raises similar issues with regard to conflicting with claim 16 and adding new matter. If Applicant files a proper terminal disclaimer, incorporates the subject matter of claim 5 into claim 1, incorporates the subject matter of claim 17 into claim 14, and carefully reviews the claims to remove all indefinite claim language, all conflicting claim language, and all new matter, then such an amendment would place the application in condition for allowance and would be entered. The examiner also suggests that applicant cancel claims 4 and 16 to remove the conflicting claim language. If applicant has any questions, then a telephone call to the examiner is encouraged .